

HOUSE CONSUMER & EMPLOYEE AFFAIRS AMENDMENT 1

Amendment No. 1 to HB1489

McDonald
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2285

House Bill No. 1489*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 47-18-2101, is amended by deleting the short title "Tennessee Identity Theft Deterrence Act of 1999" and substituting the short title "Tennessee Identification and Personal Information Protection Act of 2007".

SECTION 2. Tennessee Code Annotated, Section 47-18-2102, is amended by adding the following definitions to be appropriately designated:

() "Contractor" means any person that is a medical group, independent practice association, pharmaceutical benefits manager, or a medical service organization and is not a health care service plan or provider of health care;

() "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public;

SECTION 3. Tennessee Code Annotated, Section 47-18-2103, is amended by deleting the section in its entirety and substituting instead the following:

(a) It is unlawful for any person to directly or indirectly:

(1) Engage in identity theft; or

(2) Engage in any unfair, deceptive, misleading act or practice for the purpose of directly or indirectly engaging in identity theft.

(b) Except as provided in subdivisions (c) – (g), it is unlawful for any person to do the following:

(1) Publicly post or publicly display in any manner an individual's social security number.

(2) Print an individual's social security number on any card required for the individual to access products or services provided by the person.

(3) Require an individual to transmit the individual's social security number over

the Internet, unless the connection is secure or the social security number is encrypted.

(4) Require an individual to use the individual's social security number to access a web site, unless a password or unique personal identification number or other authentication device is also required to access the web site.

(5) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. Notwithstanding subdivision (b)(5), social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the social security number. A social security number that is permitted to be mailed under subdivision (b)(5) may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(c) Except as provided in subsection (f), a person that has used, prior to July 1, 2007, an individual's social security number in a manner inconsistent with subsection (b), may continue using that individual's social security number in that manner on or after July 1, 2007, if all of the conditions set forth in subdivisions (1) – (4) are met.

(1) The use of the social security number is continuous. If the use is stopped for any reason, subsection (b) shall apply.

(2) The individual is provided an annual disclosure, that informs the individual that the individual has the right to stop the use of the individual's social security number in a manner prohibited by subsection (b).

(3) A written request by an individual to stop the use of the individual's social security number in a manner prohibited by subsection (b) is implemented within thirty (30) days of the receipt of the request. There may not be a fee or charge for implementing the request.

(4) The person does not deny services to an individual because the individual makes a written request pursuant to subsection (b).

(d) Subsection (b) does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

(e) Subsection (b) does not apply to documents that are required by law to be recorded or open to the public.

(f)

(1) In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor, or any person providing services relative to health care or health care insurance products or services, including third-party administration or administrative services only, this section shall become operative in the following manner:

(A) On or before January 1, 2008, the entities listed in paragraph (1) of subsection (f) shall comply with subdivisions (1), (3), (4), and (5) of subsection (b) as these requirements pertain to individual policyholders or individual contract holders.

(B) On or before January 1, 2009, the entities listed in paragraph (1) of subsection (f) shall comply with subdivisions (1) - (5), inclusive, of subsection (b) as these requirements pertain to new individual policyholders or new individual contractholders and new groups, including new groups administered or issued on or after January 1, 2009.

(C) On or before July 1, 2009, the entities listed in paragraph (1) of subsection (f) shall comply with paragraphs (1) - (5), inclusive, of subdivision (b) for all individual policyholders and individual contractholders, for all groups, and for all enrollees of TennCare, except that for individual policyholders, individual contractholders and groups in existence prior to January 1, 2009, the entities listed in subdivision (1) of subsection (f) shall comply upon the renewal date of the policy, contract, or group on or after July 1, 2009, but no later than July 1, 2010.

(2) A health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor, or any other person as described in subdivision (1) of subsection (f) shall make reasonable efforts to cooperate, through systems testing and other means, to ensure that the requirements of this article are implemented on or before the dates specified in this section.

(3) Notwithstanding subdivision (f)(2), the commissioner of the department of health or the commissioner of insurance, upon a determination of good cause, may grant extensions not to exceed six (6) months for compliance by health care service plans and insurers with the requirements of this section when requested by the health care service plan or insurer. Any extension granted shall apply to the health care service plan or insurer's affected providers, pharmacy benefits manager, and contractors.

(g) If a federal law takes effect requiring the United States department of health and human services to establish a national unique patient health identifier program, a provider of health care, a health care service plan, a licensed health care professional, or a contractor that complies with the federal law shall be deemed in compliance with this section.

(h) A person shall not encode or embed a social security number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, or other technology, in place of removing the social security number, as required by this section.

SECTION 4. Tennessee Code Annotated, Section 47-18-2104(d), is amended by adding after the words "identity theft" the words "or any unlawful act pursuant to § 47-18-2103".

SECTION 5. Tennessee Code Annotated, Section 47-18-2104(e), is amended by deleting the language "identify theft or unfair, deceptive or misleading act or practice" and by substituting instead the language "unlawful act enumerated in this part".

SECTION 6. Tennessee Code Annotated, Section 47-18-2105(b), is amended by deleting the language "identify theft, unfair, misleading or deceptive act or practice" and by substituting instead the language "unlawful act enumerated in this part".

SECTION 7. Tennessee Code Annotated, Section 47-18-2105(d), is amended by adding after the language "has been assumed" the language "or the person's social security

number has been transferred or displayed in violation of § 47-18-2103 ,” and by adding after the words “identity theft” the words “or the amount of compensation paid for the transfer or display of the person’s social security number”.

SECTION 8. Tennessee Code Annotated, Section 47-18-2105(e), is amended by deleting the language “identify theft or misleading, deceptive or unfair practices used to engage in identity theft” and by substituting instead the language “unlawful act enumerated in this part”.

SECTION 9. This act shall take effect July 1, 2007, the public welfare requiring it.